

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:01CR40

UNITED STATES OF AMERICA)

)

)

VS.

)

ORDER

)

)

GLEN ALLEN GRAVES

)

WOODY ALEXANDER CARTER)

_____)

THIS MATTER is before the Court on the Government's motion to declare restitution paid and satisfied.

The judgments entered in each Defendant's case ordered the payment of restitution in the amount of \$4,717.40 to the victim of the bank robbery, First Citizens Bank. **Judgment in a Criminal Case as to Glen Allen Graves, filed April 26, 2002, at 5a; Judgment in a Criminal Case as to Woody Alexander Carter, filed June 10, 2002, at 5a.** The Defendant Carter's Judgment also specified that "[t]he vehicle seized by the Government at the time the defendant [and] co-defendant were arrested shall be sold within the next 90 days and any funds received shall be forwarded to First Citizens Bank and credited against the total amount

of restitution.” *Id.*, at 5. The Defendants were found to be “jointly and severally liable” for the total amount of restitution. **See Judgments of each Defendant, *supra*.**

The Court is advised that the total restitution was reduced by \$2,674.00 from the sale of the vehicle, leaving a total amount of restitution due of \$2,043. **See, Letter from Diane Burton, U.S. Probation Officer, dated February 23, 2006, attached to Government’s Motion.** However, according to the Clerk’s Office, a total of \$3,142.68 has been disbursed to First Citizens. *Id.* If a victim has been made whole, it is not entitled to keep more than that amount. **See, e.g., *United States v. Nucci*, 364 F.3d 419, 423 (2d Cir. 2004); *United States v. Stanley*, 309 F.3d 611, 613 (9th Cir. 2002); *United States v. Dawson*, 250 F.3d 1048, 1050 (7th Cir. 2001); *United States v. Scott*, 270 F.3d 30, 52-53 (1st Cir. 2001).**

IT IS, THEREFORE, ORDERED as follows:

1. Special Agent Stuart Kelly of the Federal Bureau of Investigation (FBI) shall file an affidavit in this matter on or before **MAY 15, 2006**, attesting to the amount of money returned to and paid in connection with the sale of the vehicle by the FBI to First Citizens Bank in connection with this case;

2. The Financial Deputy Clerk Beth Mitchell shall file an affidavit in this matter on or before **MAY 15, 2006**, attesting to the amount of restitution collected from both Defendants herein and include therewith documentation as to the record of receipts thereof as well as the record of disbursements to First Citizens Bank;
3. Upon the filing of these affidavits, the Clerk shall send copies thereof to First Citizens Bank at an address to be provided by Special Agent Kelly;
4. Upon receipt of those affidavits, First Citizens Bank shall have 20 days thereafter to file response as to the accuracy of the accountings contained therein;
5. A final ruling on the Government's motion will be held in abeyance pending receipt of the filings ordered herein; and

IT IS FURTHER ORDERED that the Clerk of Court transmit this Order electronically to the United States Attorney, the United States Probation Office, and to the respective federal correctional facilities where the Defendants are currently incarcerated. The Clerk of Court shall also send copies of this Order by United States Mail to the Defendants herein,

Special Agent Stuart Kelly, Financial Deputy Clerk Beth Mitchell, and to
First Citizens Bank at the address to be provided by Agent Kelly.

Signed: April 27, 2006

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

